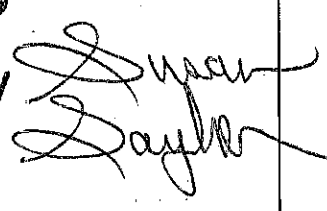


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FILED

Date 10/9/14 By 

9 **BEFORE THE**
10 **STRUCTURAL PEST CONTROL BOARD**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2015-14

13 **MICHAEL J. WOLKE**
14 **1899 Comanche Street**
Oceanside, CA 92056

A C C U S A T I O N

15 **Field Representative License No. FR 24736**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as
21 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
22 Affairs.

23 2. On or about April 18, 1995, the Structural Pest Control Board issued Field
24 Representative License Number FR 24736 in Branch 2 to Michael J. Wolke (Respondent). On
25 January 19, 1999, Field Representative License FR 24736 was upgraded to include Branches 2
26 and 3. The Field Representative License was in full force and effect at all times relevant to the
27 charges brought herein and will expire on June 30, 2015, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Structural Pest Control Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

5. Section 8625 of the Code states:

The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

STATUTORY PROVISIONS

6. Section 498 of the Code states:

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

7. Section 8637 of the Code states: "Misrepresentation of a material fact by the applicant in obtaining a license or company registration is a ground for disciplinary action."

8. Section 8641 of the Code provides that failure to comply with the provisions of the Business and Professions Code, or any rule or regulation adopted by the Board, is a ground for disciplinary action.

9. Section 8593 of the Code provides, in pertinent part, that the Board shall require as a condition to the renewal of each operator's and field representative's license that the holder submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board.

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REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1950 states:

(a) Except as provided in section 1951¹, every licensee is required, as a condition to renewal of a license, to certify that he or she has completed the continuing education requirements set forth in this article. A licensee who cannot verify completion of continuing education by producing certificates of activity completion, whenever requested to do so by the Board, may be subject to disciplinary action under section 8641 of the code.

(b) Each licensee is required to complete a certain number of continuing education hours during the three year renewal period. The number of hours required depends on the number of branches of pest control in which licenses are held. The subject matter covered by each activity shall be designated as "technical" or "general" by the Board when the activity is approved. Hour values shall be assigned by the Board to each approved educational activity, in accordance with the provisions of section 1950.5.

....

(d) Field representatives licensed in one branch of pest control shall have completed 16 continuing education hours, field representatives licensed in two branches of pest control shall have completed 20 continuing education hours, field representatives licensed in three branches of pest control shall have completed 24 continuing education hours during each three year renewal period. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control held by the licensee must be completed for each branch of pest control licensed, a minimum of two hours in Integrated Pest Management must be completed by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and a minimum of eight hours must be completed from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

....

COSTS

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

¹ 16 C.C.R. § 1951 states: "In lieu of continuing education, a licensee may qualify for renewal by taking and passing an examination designed by the Board to cover developments in the field of pest control. Licensees who choose this method of qualifying for renewal may take this examination only once, and must take the examination no earlier than one year prior to their license expiration date. A score of 70% or higher shall be considered a passing grade on this examination."

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Securing a License by Fraud, Deceit, or Knowing Misrepresentation of a Material Fact)**

5 12. Respondent has subjected his license to disciplinary action under sections 498 and
6 8637 of the Code in that he secured his Field Representative License by fraud, deceit, or knowing
7 misrepresentation of a material fact. The circumstances are as follows:

8 13. On or about June 21, 2012, Respondent signed his "License Renewal Application –
9 Field Representative" for Field Representative License number FR 24736. Declaring under
10 penalty of perjury under the laws of the State of California that his information was true and
11 correct, Respondent stated that he completed 20 hours of continuing education required for the
12 renewal of his license. Respondent's Field Representative License was subsequently renewed for
13 a period of three years.

14 14. In a letter dated November 28, 2012, mailed to Respondent's address of record, the
15 Board informed Respondent that he had been selected for a continuing education audit.
16 Respondent was directed to provide the certificates of course completion for the 20 hours of
17 continuing education claimed on his license renewal application for the renewal period of July 1,
18 2009 through June 30, 2012. Respondent was told that the requested information was due 14
19 days from the date of the letter, and that failure to comply would subject him to disciplinary
20 action. After Respondent failed to respond to the letter, a second letter dated January 9, 2013,
21 was mailed to Respondent. Respondent failed to comply.

22 15. In a third letter dated October 23, 2013, sent to Respondent via First Class and
23 Certified Mail, Respondent was directed to provide the requested information within 14 days.
24 The Domestic Return Receipt was signed on October 28, 2013. Respondent failed to comply.

25 16. In a fourth letter dated December 18, 2013, sent to Respondent's address of record via
26 Certified Mail, Respondent was warned that as a result of his ongoing non-compliance with the
27 continuing education audit, disciplinary action would be taken against his license. The Domestic
28 Return Receipt was signed December 21, 2013. Respondent failed to comply.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Failure to Comply With the Provisions of the Structural Pest Control Act)**

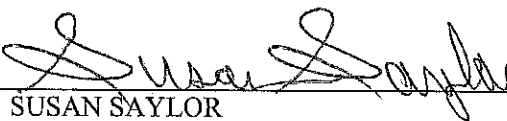
3 17. Respondent has subjected his license to disciplinary action under section 8641 of the
4 Code, and California Code of Regulations, title 16, section 1950, in that he failed to comply with
5 the provisions of the Structural Pest Control Act, as described in paragraphs 13-16, above.
6 Respondent's conduct violated Business and Professions Code section 8593, which required
7 Respondent, as a condition to the renewal of his Field Representative License in two Branches, to
8 submit proof that he complete a minimum of 20 hours of continuing education in pest control
9 approved by the Board or equivalent activity approved by the Board within the three-year renewal
10 period.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Structural Pest Control Board issue a decision:

- 14 1. Revoking or suspending Field Representative License Number FR 24736, issued to
15 Michael J. Wolke;
- 16 2. Ordering Michael J. Wolke to pay the Structural Pest Control Board the reasonable
17 costs of the investigation and enforcement of this case, pursuant to Business and Professions
18 Code section 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.
- 20
- 21

22 DATED: 10/9/14

23 

24 SUSAN SAYLOR
25 Registrar/Executive Officer
26 Structural Pest Control Board
27 Department of Consumer Affairs
28 State of California
Complainant

SD2014708052